

NOT FOR PUBLICATION

DEC 10 2007

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

JOHN PATRICK MCCLURE,

Plaintiff - Appellant,

v.

BROADBENT, Doctor, sued in his/her
individual & official capacity,

Defendant - Appellee.

No. 06-17286

D.C. No. CV-05-02219-JAT/JRI

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
James A. Teilborg, District Judge, Presiding

Submitted December 3, 2007**

Before: GOODWIN, WALLACE, and FISHER, Circuit Judges.

John Patrick McClure, an Arizona state prisoner, appeals pro se from the district court's summary judgment in his 42 U.S.C. § 1983 action alleging prison

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** McClure's request for oral argument is denied because the panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

dentist Dr. Charles Broadbent acted with deliberate indifference to his medical needs. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo, *Delta Savings Bank v. United States*, 265 F.3d 1017, 1021 (9th Cir. 2001), and we affirm.

The district court properly granted summary judgment, because McClure failed to raise a genuine issue of material fact as to whether Broadbent acted with deliberate indifference in treating his dental needs. *See Toguchi v. Chung*, 391 F.3d 1051, 1057-60 (9th Cir. 2004). The record contains evidence that Broadbent provided treatment for McClure's dental problems and McClure failed to produce evidence to support his allegation that Broadbent embedded a piece of steel into his tooth.

McClure's motion for appointment of counsel is denied because McClure failed to demonstrate exceptional circumstances. *See Terrell v. Brewer*, 935 F.2d 1015, 1017 (9th Cir. 1991).

McClure's remaining contentions are unpersuasive.

AFFIRMED.